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Note verbale dated 13 May 2004 from the Permanent Mission of Mali to the United Nations addressed to the Secretary-General

The Permanent Mission of the Republic of Mali to the United Nations presents its compliments to the United Nations Secretariat and has the honour to transmit to it the attached copy of the conclusions and recommendations of the subregional seminar of experts on the implementation of the universal instruments against terrorism and the Convention against Transnational Organized Crime and its three Protocols, held in Bamako from 25 to 28 November 2003 and organized by the Government of Mali in cooperation with the United Nations Office on Drugs and Crime (UNODC).

The aim of this initiative was to take stock of progress in promoting the ratification and implementation of the universal instruments against terrorism in countries which have already requested UNODC technical assistance.

The seminar gave experts from the other countries of the Economic Community of West African States (ECOWAS) and the Central African Economic and Monetary Community (CEMAC) an opportunity to attend as observers and gain a direct insight into the kind of assistance which UNODC provides and into the technical and legal implications of that assistance.

To that end, the Permanent Mission of the Republic of Mali wishes these documents to be circulated as documents of the General Assembly and Security Council.

The Permanent Mission of the Republic of Mali to the United Nations takes this opportunity to convey to the United Nations Secretariat the renewed assurances of its highest consideration.

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Annex to the note dated 13 May 2004 from the Permanent Mission of the Republic of Mali to the United Nations addressed to the Secretary-General

I. Introduction

1. The subregional seminar of experts on the implementation of the universal instruments against terrorism and the Convention against Transnational Organized Crime and its three Protocols was held in Bamako from 25 to 28 November 2003. It was organized jointly by the Government of Mali and the United Nations Office on Drugs and Crime (UNODC), pursuant to General Assembly resolutions 56/123 and 57/173 and to Economic and Social Council resolution 2002/19. The meeting was set against the background of UNODC action to encourage rapid implementation of the Convention, its Protocols and the universal instruments against terrorism.

II. Organization of the seminar

A. Opening

2. The opening ceremony was hosted by the Minister of Education of Mali, taking the place of the Minister of Justice, who was unable to attend.

3. The representatives of the Security Council Committee established pursuant to resolution 1373 (2001) (the Counter-Terrorism Committee) and of UNODC thanked the Malian Government for its hospitality and emphasized that States must act in solidarity with each other to defeat that scourge. The representative of the Counter-Terrorism Committee introduced the core of the Committee's counter-terrorism policies and the results they had produced, including mobilizing the international community and the rapidly growing pace of ratification of international conventions. He also pointed out the difficulties, mainly operational difficulties, which had arisen, and the problems posed by the nature of the phenomenon, by development and by the scarcity of State resources resulting from poverty and conflict. The representative of UNODC emphasized the importance of international legal instruments against terrorism and organized crime, and stressed the need for African countries to take urgent action in that connection. He also outlined for the participants the main elements of the seminar's programme and aims.

4. In his opening address, the Minister welcomed the delegations and thanked UNODC for choosing Mali to host that important event, a sign of the significance it attached to Mali and to Africa. He called on the participants to draw on their expertise to help their efforts to succeed. He described Mali's progress towards ratifying the Convention, its Protocols and the universal instruments against terrorism. Mali intended to sign the United Nations Convention Against Corruption at the signing conference in Mérida. He urged the participants to remember that it was in the interest of African countries to look in the same direction and establish legal instruments which would lead Africans to take coherent, agreed and complementary action in those fields.

B. Participation

5. Ministers and delegations representing the following African countries took part in the conference: Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, the Central African Republic, the Comoros, the Republic of the Congo, the Democratic Republic of the Congo, Gabon, the Gambia, Ghana, Guinea, Mali, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone and Togo. Also present were representatives of the following intergovernmental organizations and institutions: the African Union, the Counter-Terrorism Committee of the United Nations Security Council, the Economic Community of West African States (ECOWAS), the Central African Economic and Monetary Community (CEMAC), the International Monetary Fund (IMF), the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) and the United Nations Office on Drugs and Crime (UNODC).

Annex III contains a detailed list of participants.

C. Election of the Bureau and adoption of the agenda

6. Following the opening ceremony, the participants appointed the following members of the Bureau:

Chairman:

Mr. Wafi Ougadeyé, Chargé de Mission in the Office of the President of the Republic of Mali;

Rapporteur:

Mr. Zénon Mukongo Ngay, First Counsellor and Legal Adviser, Permanent Mission of the Democratic Republic of the Congo to the United Nations.

7. The participants then adopted the agenda and organization of work attached as annex II.

III. The seminar

8. Each of the items on the agenda which had been approved was introduced at a plenary session of the seminar. The seminar continued with a series of workshops.

A. Plenary session

9. Once the representatives of the Counter-Terrorism Committee of the Security Council and of UNODC had introduced the main features of their technical assistance programmes, the Director of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) described his organization's technical assistance activities and expressed his willingness to work closely with UNODC on such matters. He said that UNAFRI was at the full disposal of States which needed technical assistance.

10. Following the descriptions of technical assistance and international cooperation, Mr. Cheick Ouedraogo, chief presiding judge of the Court of Cassation of Burkina Faso, explained the outcome of the Ouagadougou ministerial conference of 23 to 30 November 2001 and the Cairo ministerial conference of 2 to 4 November 2003. He then emphasized the recommendations of the Cairo Declaration adopted at the close of the Conference: that UNODC should prepare a

practical manual for the use of judges, police officers and other public officials in the implementation of the United Nations conventions against transnational organized crime and terrorism and should set up a support mechanism for the implementation by States of those conventions.

11. During that session, the representative of the International Monetary Fund also introduced the organization's technical cooperation initiatives and activities to combat the financing of terrorism. To add a regional and subregional focus to the information provided, the representatives of the Economic Community of West African States (ECOWAS) and the Central African Economic and Monetary Community (CEMAC) described their organizations' initiatives and activities to prevent and combat terrorism and transnational organized crime, reiterating their willingness to work closely with UNODC on such matters.

12. When the session resumed, the participants reported on progress and the problems involved in implementing the universal instruments against terrorism and the Convention against Transnational Organized Crime. Each of the participants gave details of the progress made in ratifying and implementing the various instruments and the steps under way or yet to be taken to integrate them into national legislation.

B. Workshops

13. The plenary session was followed, on Wednesday, 26 November 2003, by a workshop session. For the next two and a half days, the participants were divided into three workshops.

14. The first workshop was led by a representative of UNODC and brought together the participating States who had the use of Portuguese in common: Cape Verde and Sao Tome and Principe. A technical assistance mission to those States had already taken place.

15. The second workshop was led by a representative of the United Nations Security Council Counter-Terrorism Committee and a representative of UNODC. It brought together participating States to which UNODC had already dispatched a first technical assistance mission: Benin, Burundi, the Comoros, the Democratic Republic of the Congo, Mali and Niger.

16. The participants in the third workshop were States which had asked for, but not yet received, technical assistance from UNODC: Burkina Faso, Cameroon, the Central African Republic, Gabon and Rwanda. It was led by two representatives of UNODC. The workshop enabled UNODC to begin providing technical assistance by measuring their legislation against the instruments in question and the obligations they entailed. States which had not requested technical assistance (Chad, the Republic of the Congo, the Gambia, Ghana, Guinea, Nigeria, Senegal, Sierra Leone and Togo) and the regional and subregional organizations also attended as observers to gain a direct insight into the kind of assistance which UNODC provided and into the technical and legal implications of that assistance.

17. Each workshop devoted part of its time to the universal instruments against terrorism and part of its time to the Convention against Transnational Organized Crime and its Protocols. In that connection, the representatives of the United Nations Security Council Counter-Terrorism Committee and UNODC gave detailed presentations of the main components of the universal instruments against terrorism.

UNODC also covered the Convention against Transnational Organized Crime and its three Protocols (against trafficking in persons, against the smuggling of migrants and against the illicit manufacturing of and trafficking in firearms). In each workshop, the presentations were followed by an analysis of each participating State's legislation or draft legislation regarding those instruments.

18. The productive debate which followed enabled each workshop to produce concrete conclusions and recommendations which were later collected and presented to all the participants at a plenary session. The conclusions and recommendations emphasized that the instruments in question were a very appropriate framework for international legal cooperation in criminal matters. It was particularly important to use them as a basis for extradition, implementing the principle of "extradite or prosecute", prohibiting the use of banking secrecy to refuse legal assistance and preventing extradition requests from being rejected on the grounds that the offence was political in nature. They recommended that regional and subregional organizations should make time at their meetings to examine ratification of and/or accession to the instruments in question. They asked UNODC to prepare a practical manual for the use of judges, police officers and other public officials in the implementation of the United Nations conventions against transnational organized crime and terrorism and to support States in their requests to the appropriate financial bodies for financial assistance to improve technology for identification, detection, surveillance and monitoring at maritime, land and air borders.

IV. Conclusions and recommendations

19. Once each workshop had ended and made its report, the participants adopted conclusions and recommendations, which can be found in Annex I.

V. Closure of the seminar

20. The closing ceremony was hosted by Mr. Abdoulaye Garba Tapo, Minister of Justice and Keeper of the Seals of Mali.

21. The representatives of the United Nations Security Council Counter-Terrorism Committee and UNODC thanked the Malian Government for its hospitality and congratulated the participants on their rich exchange of views, their energy and their openness throughout the discussions. They hoped that such political momentum would be maintained in the fight against transnational organized crime and terrorism.

22. Mr. Abdoulaye Garba Tapo, Minister of Justice and Keeper of the Seals of Mali, thanked UNODC for its initiative and congratulated the participants on their dynamic approach to combating transnational organized crime and terrorism. He drew attention to the role of UNODC in offering States the assistance which they needed during the process of ratifying and implementing the Convention and its Protocols.

Annex I

Conclusions and recommendations adopted by the participants in the subregional seminar of experts on the implementation of the universal instruments against terrorism and the Convention against Transnational Organized Crime and its three Protocols

Bamako, 25-28 November 2003

We, the seminar participants listed in the annex,

Having examined the universal instruments against terrorism and the Convention against Transnational Organized Crime and its three Protocols,

1. Recognize the urgent need to ratify the universal instruments against terrorism and the Convention against Transnational Organized Crime and its Protocols. Those instruments are a highly appropriate framework for international legal cooperation in criminal matters, not just among ourselves as participating States, but with all the States parties to those instruments;

2. Recognize the existence of serious problems connected with the proliferation of firearms in the subregion and stress the urgent need to ratify and implement the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

3. Recognize the importance of using the instruments referred to above as a legal basis for extradition, and recommend the States which have ratified them to act accordingly;

4. Recognize the need to ensure that extradition requests will not be rejected because the offence is political in nature;

5. Recall that banking secrecy should not be invoked to refuse legal assistance or to refuse permission for courts or other competent authorities to order banking, financial or commercial documents to be produced or seized;

6. Consider it necessary to apply the "extradite or prosecute" principle in the case of offences contained in the instruments in question, while taking account of the admissibility in criminal proceedings of evidence obtained from abroad;

7. Consider it necessary to encourage the conclusion of bilateral and regional agreements and treaties on legal cooperation in criminal matters between the States parties;

8. Recognize the need to refine the mechanisms for cooperation and mutual assistance in legal and police matters that improve prevention and investigation efforts;

9. Recognize the need to find alternatives to diplomatic channels to simplify the handling of legal cooperation requests between States parties;

10. Consider it vital to facilitate legal cooperation in criminal matters within the States parties, particularly procedures for extradition and mutual legal assistance and recall the need to designate a central authority meeting the requirements of the Convention against Transnational Organized Crime and to notify the Secretary-

General of the United Nations of the identity of that central authority when depositing instruments of accession;

11. Emphasize the importance of implementing the substantive provisions of the instruments in question, including incorporation into internal legislation of the offences covered;

12. Recognize that participant States' difficulties with ratifying and/or implementing in internal legislation the international legal instruments in question can be addressed with the help of the United Nations;

13. Recognize the importance of this Seminar and the need for suitable follow-up action, with a close relationship between the participants;

14. Undertake to report on and disseminate our work to the various competent national authorities to remind them of the obligations of their States in connection with the international legal instruments in question;

15. Emphasize the importance of cooperation with subregional, regional and international organizations to implement the instruments in question;

16. Recommended that regional and subregional organizations taking part in the Seminar should make time at their meetings to examine ratification of and/or accession to the instruments in question, and that their Parliaments should include in their activities the promotion of accession to and implementation of those instruments;

17. Recommend that those regional and subregional organizations should transmit the legal texts which they adopt to their States members;

18. Request the United Nations Office on Drugs and Crime (UNODC) to prepare and disseminate widely a practical manual for the use of judges, police officers and other public officials in the implementation of the United Nations conventions against transnational organized crime and terrorism;

19. Request the United Nations Office on Drugs and Crime (UNODC) to support States in their requests to the appropriate financial bodies for financial assistance to improve technology for identification, detection, surveillance and monitoring at maritime, land and air borders;

20. Encourage civil society to take part in regional and subregional seminars of the United Nations Office on Drugs and Crime (UNODC).